IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

CRP.No. 1879 of 2002()

OP(ELE)NO.69/1998 of ADDL. DISTRICT COURT, THODUPUZHA
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REVISION PETITIONER: RESPONDENT:

KERALA STATE ELECTICITY BOARD,
REP. BY ITS SECRETARY, VAIDYUTHI BHAVANAM,
THIRUVANANTHAPURAM-4.

BY SRI.C.K.KARUNAKARAN, SC, KSEB

RESPONDENT: PETITIONER:

CHELLAPPAN, S/O. GOPALAN,
THANDADIYIL HOUSE, KANJIKUZHI P.O.,
KANJIKUZHI VILLAGE, THODUPUZHA. TALUK.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.NO.4552/2002 IN C.R.P.NO.1879/2002

DISMISSED

3/12/2007 **SD/- M.N.KRISHNAN, JUDGE**

/TRUE COPY/

P.A.TO JUDGE

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M.N. KRISHNAN, J.

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C.R.P. NO. 1879 OF 2002

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Dated this the 3rd day of December, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. District Judge, Thodupuzha in O.P.(Ele.)69/98 for drawing Kunjikuzhi-Venmani 11 K.V. line over the petitioner's property. Various improvements were cut down by the respondent and no amount was paid as compensation. The petitioner had claimed a compensation of Rs.3,55,000/-. According to the petitioner 16 pepper wines, two yielding jack fruit trees, 7 yielding arecanuts one mango tree and two coconut trees were cut and removed. The contention of the Electricity Board is that unless the petitioner is able to establish the title he is not entitled to compensation and it is submitted that this Court has directed so in O.P.18575/95. After analyzing the entire materials the Court has awarded a compensation of Rs.33,264/- with 10% interest and if not paid in three months the interest is to be at 12%.

2. The learned counsel for the revision petitioner submits that the petitioner has to prove the title to get the

compensation. It is after obtaining permission from the petitioner and after satisfying that the property belongs to him the trees had been cut and removed by the Electricity Board. There is no case for the K.S.E.B. that the petitioner is not in possession of the property. When the trees are cut down from the property which is in the possession of a person he is entitled to get compensation. If any party is having better title, it is for him to come up before Court and establish it. Therefore, the said preliminary objection cannot be sustained.

3. The next point to be considered is regarding the quantum of compensation. For 16 pepper wines which are aged about 5 to 6 years the multiplier used is only 7 and for a jack fruit tree it is 15, for the arecanut trees 12, for a mango tree 15 and for the rubber trees 10. The current market rate prevailing at that time had been taken into consideration, i.e., at the rate of 43.75% for arecanut, 30% for rubber and 25% for other trees. The life has been considered as 7 for pepper, 10 for rubber, 12 for arecanut and for jack fruit tree

15. By any stretch of imagination it cannot be stated to be excessive. Therefore, the compensation awarded is only on materials available and it is not excessive and therefore there is no ground to interfere with the total compensation awarded for Rs.33,264/- and the rate of interest awarded is slightly excessive which is 10%. I feel as the interest rate is coming down year by year it is only just and equitable to give interest at the rate of 6%. Therefore, the CRP is disposed of modifying the award of the Court below and the amount of compensation fixed is upheld and the rate of interest is reduced from 10% to 6% and it is at that rate the interest has to be calculated. The Board is directed to deposit that amount within three months from today failing which they may have to pay interest at the rate of 8%.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.

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C.R.P. No. 1879 OF 2002

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O R D E R

3rd December, 2007.